

SENATE BILL No. 279

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-12; IC 36-2-13-5.5.

Synopsis: Sex offender registration. Requires persons convicted of possession of child pornography to register as sex offenders. Increases the penalty for a person who fails to register as a sex offender to a Class C felony for the first offense and a Class B felony for a subsequent offense. Removes a provision permitting offenders adjudicated as sexually violent predators to be removed from the directory. Specifies that the sex offender web site is to be: (1) operated by the Indiana sheriff's association; and (2) updated every 30 days.

Effective: July 1, 2003.

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January 9, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 279

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-12-4, AS AMENDED BY P.L.116-2002,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 4. (a) As used in this chapter, "offender" means
4 a person convicted of any of the following sex and violent offenses:

- 5 (1) Rape (IC 35-42-4-1).
- 6 (2) Criminal deviate conduct (IC 35-42-4-2).
- 7 (3) Child molesting (IC 35-42-4-3).
- 8 (4) Child exploitation (IC 35-42-4-4(b)).
- 9 (5) Vicarious sexual gratification (IC 35-42-4-5).
- 10 (6) Child solicitation (IC 35-42-4-6).
- 11 (7) Child seduction (IC 35-42-4-7).
- 12 (8) Sexual misconduct with a minor as a Class A, Class B, or
- 13 Class C felony (IC 35-42-4-9).
- 14 (9) Incest (IC 35-46-1-3).
- 15 (10) Sexual battery (IC 35-42-4-8).
- 16 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
- 17 (18) years of age.



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(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) **Possession of child pornography (IC 35-42-4-4(c)).**

(14) An attempt or conspiracy to commit a crime listed in subdivisions (1) through ~~(12)~~: **(13)**.

~~(14)~~ **(15)** A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(13)~~: **(14)**.

(b) The term includes a child who has committed a delinquent act and who:

(1) is at least fourteen (14) years of age;

(2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(3) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 2. IC 5-2-12-9, AS AMENDED BY P.L.116-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. An offender who knowingly or intentionally fails to register under this chapter commits a ~~Class D~~ **Class C** felony. However, the offense is a ~~Class E~~ **Class B** felony if the offender has a prior unrelated offense under this section.

SECTION 3. IC 5-2-12-13, AS AMENDED BY P.L.116-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (b) and (c), an offender's duty to register expires ten (10) years after the date the offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;

(2) is placed in a community transition program;

(3) is placed in a community corrections program;

(4) is placed on parole; or

(5) is placed on probation;

whichever occurs last.

(b) An offender who is found to be a sexually violent predator by a court under IC 35-38-1-7.5(b) is required to register for an indefinite period. ~~unless a court, assisted by a board of experts, finds that the~~

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offender is no longer a sexually violent predator under IC 35-38-1-7.5(c):

(c) An offender who is convicted of at least one (1) sex and violent offense that the offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) An offender who is convicted of at least one (1) sex and violent offense in which the offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) An offender who is convicted of at least two (2) unrelated sex and violent offenses is required to register for life.

SECTION 4. IC 36-2-13-5.5, AS ADDED BY P.L.116-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a sex offender web site, known as the Indiana sheriffs' sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. **The web site shall be operated by the Indiana sheriff's association. The Indiana sheriff's association shall ensure that the web site is updated at least every thirty (30) days.**

(b) The sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required to be included in the sex offender directory (IC 5-2-12-6).

(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender web site.

(d) The photograph of a sex offender described in subsection (c)



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- 1 must meet the following requirements:
- 2 (1) The photograph must be full face, front view, with a plain
- 3 white or off-white background.
- 4 (2) The image of the offender's face, measured from the bottom
- 5 of the chin to the top of the head, must fill at least seventy-five
- 6 percent (75%) of the photograph.
- 7 (3) The photograph must be in color.
- 8 (4) The photograph must show the offender dressed in normal
- 9 street attire, without a hat or headgear that obscures the hair or
- 10 hairline.
- 11 (5) If the offender normally and consistently wears prescription
- 12 glasses, a hearing device, wig, or a similar article, the photograph
- 13 must show the offender wearing those items. A photograph may
- 14 not include dark glasses or nonprescription glasses with tinted
- 15 lenses unless the offender can provide a medical certificate
- 16 demonstrating that tinted lenses are required for medical reasons.
- 17 (6) The photograph must have sufficient resolution to permit the
- 18 offender to be easily identified by a person accessing the sex
- 19 offender web site.
- 20 (e) The sex offender web site may be funded from:
- 21 (1) the jail commissary fund (IC 36-8-10-21);
- 22 (2) a grant from the criminal justice institute; and
- 23 (3) any other source, subject to the approval of the county fiscal
- 24 body.

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